

**ASSEMBLY BILL**

**No. 2438**

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**Introduced by Assembly Members Waldron and Nazarian**

February 19, 2016

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An act to add and repeal Section 21080.21.5 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2438, as introduced, Waldron. California Environmental Quality Act: exemption: recycled water pipelines.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts specified pipeline projects from the above requirements.

This bill would, until January 1, 2020, additionally exempt from CEQA a project for the construction and installation of a new pipeline or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline, not exceeding 8 miles in length, for the distribution of recycled water within a public street, highway, or right-of-way and would require the lead agency to undertake specified activities, including the filing of a notice

of exemption for the project with the Office of Planning and Research and the office of the county clerk of each county in which the project is located. The bill would require the lead agency, before determining the applicability of the exemption, to hold a noticed public hearing to consider and adopt mitigation measures for potential traffic impacts of the project. Because the lead agency would be required to determine whether a project qualifies for that exemption, and undertake specified activities, this bill would impose a state-mandated local program. The bill would require the county clerk to post the notice of exemption within 24 hours of receipt, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California is experiencing its worst water shortage crisis in
- 4 modern history and increasing the use of recycled water, a supply
- 5 that is not dependent on precipitation, is critical to increasing the
- 6 flexibility of, and expanding, the state's available water supply.
- 7 (b) The pressures on the Bay-Delta ecosystem, climate change,
- 8 and continuing population growth have increased the challenges
- 9 to the state in providing clean water needed for a healthy population
- 10 and economy.
- 11 (c) Recycled water has been beneficially used in California for
- 12 the past century for a variety of purposes, including agriculture,
- 13 landscape irrigation, seawater barrier, industrial purposes, and
- 14 groundwater recharge.
- 15 (d) Recycled water can significantly stretch California's potable
- 16 water supplies and help increase local water supply reliability.
- 17 Currently, more than 3.5 million acre-feet of recyclable water is
- 18 discharged annually to the ocean.

1 (e) The Assembly Committee on Water, Parks, and Wildlife,  
2 in March 2012, reported that the level of water supplies that could  
3 potentially be derived from recycled water is substantial.

4 (f) The National Academy of Sciences, in *Water Reuse: Potential*  
5 *for Expanding the Nation's Water Supply Through Reuse of*  
6 *Municipal Wastewater*, states that “in the U.S. approximately 12  
7 billion gallons of municipal wastewater effluent is discharged each  
8 day to an ocean or estuary and that reusing these coastal discharges  
9 could directly augment public supplies by 27 percent.”

10 (g) The National Academy of Sciences further found that, unlike  
11 water that is discharged into a stream and potentially used by  
12 another downstream party, water discharged to the ocean is  
13 considered “‘irrecoverable’ and thus constitutes ‘new supply.’”

14 (h) In 2010, the State Water Resources Control Board adopted  
15 a recycled water policy for California with a goal of creating an  
16 additional 2.5 million acre-feet of recycled water by 2030.

17 (i) The delivery of shovel-ready recycled water projects can  
18 provide immediate drought relief to California's struggling  
19 communities.

20 (j) Recycled water projects could and should be expedited by  
21 providing relief from the time consuming provisions of the  
22 California Environmental Quality Act (Division 13 (commencing  
23 with Section 21000) of the Public Resources Code), while still  
24 complying with all state and local laws and providing notice to  
25 the public and appropriate local and state agencies.

26 SEC. 2. Section 21080.21.5 is added to the Public Resources  
27 Code, to read:

28 21080.21.5. (a) This division does not apply to a project of  
29 less than eight miles in length within a public street, highway, or  
30 right-of-way for the construction and installation of a new recycled  
31 water pipeline, or the maintenance, repair, restoration,  
32 reconditioning, relocation, replacement, removal, or demolition  
33 of an existing recycled water pipeline.

34 (b) For the purposes of this section, “pipeline” means subsurface  
35 pipelines and subsurface or surface accessories or appurtenances  
36 to a pipeline, such as mains, traps, vents, cables, conduits, vaults,  
37 valves, flanges, manholes, and meters.

38 (c) For a project described in subdivision (a), the lead agency  
39 shall do all of the following:

1 (1) Before determining the applicability of this section to a  
2 project, hold a noticed public hearing to consider and adopt  
3 mitigation measures for potential traffic impacts of the project.

4 (2) File a notice of exemption of the project from this division  
5 with the Office of Planning and Research and in the office of the  
6 county clerk of each county in which the project is located within  
7 20 days of the approval of the project. The county clerk shall post  
8 the notice within 24 hours of receipt.

9 (3) Ensure that the overlaying property owner has given  
10 permission to access the property, in the case of a right-of-way  
11 over private property, if access is not granted in the express terms  
12 of the right-of-way.

13 (4) Ensure the restoration of the public street, highway, or  
14 right-of-way to a condition consistent with all applicable local  
15 laws or regulations, or a negotiated agreement.

16 (d) The project applicant shall comply with all applicable laws  
17 and regulations, including Chapter 3 (commencing with Section  
18 60301) of Division 4 of Title 22 of the California Code of  
19 Regulations.

20 (e) This section does not apply to any of the following:

21 (1) A project that is a part of a larger project for the construction  
22 and installation of a new recycled water pipeline, or the  
23 maintenance, repair, restoration, reconditioning, relocation,  
24 replacement, removal, or demolition of an existing recycled water  
25 pipeline, that exceeds the length limitation set forth in subdivision  
26 (a).

27 (2) A project that is adjacent to another project for which a claim  
28 of exemption pursuant to this section has been made.

29 (3) A project that is located in a resource area, such as a park,  
30 open space, protected habitat area, or lands subject to a  
31 conservation easement.

32 (4) A project for which an excavation activity that is more than  
33 one-half mile in length at any one time will be undertaken.

34 (f) This section shall remain in effect only until January 1,  
35 2020, and as of that date is repealed, unless a later enacted statute,  
36 that is enacted before January 1, 2020, deletes or extends that date.

37 SEC. 3. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 a local agency or school district has the authority to levy service  
40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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